

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE MIDDLE DISTRICT OF ALABAMA  
3                   EASTERN DIVISION

4  
5                   CIVIL ACTION NUMBER

6                   3:05-CV-0741-M

7  
8                   BARRY BUCKHANON and RODNEY FRALEY,

9                   Plaintiffs,

10                  vs.

11                  HUFF & ASSOCIATES CONSTRUCTION COMPANY,  
12                  INC.,

13                  Defendant.

14

15                  DEPOSITION TESTIMONY OF:

16                  BARRY BUCKHANON

17

18

19                  June 8, 2006

20                  10:15 a.m.

21

22                  COURT REPORTER:

23                  Gwendolyn P. Timbie, CSR

COPY

EXHIBIT

D

## S T I P U L A T I O N S

IT IS STIPULATED AND AGREED by and  
between the parties through their  
respective counsel that the deposition of  
BARRY BUCKHANON, may be taken before  
Gwendolyn P. Timbie, Certified Shorthand  
Reporter and Notary Public, State at  
Large, at the law offices of Bowles &  
Cottle, Tallassee, Alabama, on June 8,  
2006, commencing at approximately  
10:15 a.m.

12 IT IS FURTHER STIPULATED AND  
13 AGREED that the signature to and the  
14 reading of the deposition by the witness  
15 is waived, the deposition to have the same  
16 force and effect as if full compliance had  
17 been had with all laws and rules of Court  
18 relating to the taking of depositions.

19 IT IS FURTHER STIPULATED AND  
20 AGREED that it shall not be necessary for  
21 any objections to be made by counsel to  
22 any questions, except as to form or  
23 leading questions, and that counsel for

1       the parties may make objections and assign  
2       grounds at the time of trial or at the  
3       time said deposition is offered in  
4       evidence, or prior thereto.

5                  Please be advised that this is the  
6       same and not retained by the Court  
7       Reporter, nor filed with the Court.

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2	EXAMINATION BY:	PAGE NO.
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1 A P P E A R A N C E S  
2

3 FOR THE PLAINTIFFS:

4 JAMES R. BOWLES, Esquire  
5 Bowles & Cottle  
2 South Dubois Avenue  
Tallassee, Alabama 36078

7 FOR THE DEFENDANT:

8 BENJAMIN C. WILSON, Esquire  
9 Rushton, Stakely, Johnston & Garrett,  
P.A.  
10 184 Commerce Street  
Montgomery, Alabama 36104

12 ALSO PRESENT:

13 RODNEY FRALEY

23

1                   I, Gwendolyn P. Timbie, Certified  
2 Shorthand Reporter and Notary Public for  
3 the State of Alabama at Large, acting as  
4 Commissioner, certify that on this date,  
5 pursuant to the Federal Rules of Civil  
6 Procedure, and the foregoing stipulation  
7 of counsel, there came before me at the  
8 law offices of Bowles & Cottle, Tallasseee,  
9 Alabama, commencing at approximately  
10 10:15 a.m., on June 8, 2006, Barry  
11 Buckhanon, plaintiff in the above cause,  
12 for oral examination, whereupon the  
13 following proceedings were had:

14

15                   BARRY BUCKHANON,  
16 having been first duly sworn, was examined  
17 and testified as follows:

18

19 EXAMINATION BY MR. WILSON:

20                 Q         Could you state your name,  
21 please, sir?

22                 A         My name is Barry Buckhanon.

23                 Q         Mr. Buckhanon, what's your

1 current residence address?

2 A 497 Kent Road, Tallassee,  
3 Alabama.

4 Q How long have you lived there?

5 A About fifteen years.

6 Q Are you married?

7 A No. Single.

8 Q Have you ever been married?

9 A No.

10 Q Have you ever given a  
11 deposition before?

12 A No.

13 Q Well, let me kind of walk you  
14 through the process. We're going to ask  
15 you a series of questions about your  
16 lawsuit. And if you don't understand the  
17 question, will you let me know so I can  
18 rephrase it for you?

19 A Yes.

20 Q And you need to answer  
21 verbally so the court reporter can record  
22 your answer. Okay?

23 A Yes.

1 Q Do you understand you're under  
2 oath?

3 A Yes.

4 Q And if you need to stop for a  
5 moment to take a break, let me know.

6 Okay?

7 A Okay.

8 Q How long have you lived here  
9 in Tallassee?

10 A All my life.

11 Q And what's your educational  
12 background?

13 A Graduated. Twelfth.

14 Q Twelfth grade?

15 A Graduated.

16 Q What school?

17 A Tallassee High School.

18 Q What year?

19 A '96.

20 Q Does anyone currently live  
21 with you?

22 A Yeah. I live with my mom.

23 Q What's her name?

1 A Helen Ricks.

2 Q R-I-C-K-S?

3 A Right.

4 Q How long have you lived with  
5 her?

6 A All my life.

7 Q Do you have any -- other than  
8 your mother, do you have any relatives in  
9 this part of the state?

10 A Yeah.

11 Q All right. Give me their last  
12 names.

13 A Macon and Buckhanon and  
14 Williams.

15 Q Williams?

16 A Uh-huh.

17 Q Anything else?

18 A No.

19 Q Where do these individuals  
20 live?

21 A Some of them stay in  
22 Tallassee, some of them stay in Macon  
23 County, some stay out of state.

1 Q Is your father living?

2 A No.

3 Q Do you have any relatives in  
4 Lee County?

5 A No, sir. Not as I know of.

6 Q Do you have any brothers and  
7 sisters?

8 A Yes, sir.

9 Q What are their names?

10 A Anthony Buckhanon, Jasper  
11 Buckhanon, Robin Buckhanon, and Terry  
12 Buckhanon.

13 Q All right. Are you currently  
14 employed?

15 A Yeah.

16 Q Where?

17 A I work at Hilyer Auto Parts.

18 Q What was that?

19 A Hilyer Auto Parts.

20 Q Where is that?

21 A Right up in Kent. Going  
22 towards Kent.

23 Q How long have you been working

1 there?

2 A I've been helping him off and  
3 on all my life.

4 Q Are you paid by the hour?

5 A Yeah.

6 Q What's your current salary or  
7 rate of pay?

8 A He pays me seven fifty an  
9 hour.

10 Q How long has that been the  
11 case?

12 A Sir?

13 Q How long has that been the  
14 case?

15 A Now -- I've been back with him  
16 probably now about five months.

17 Q Other than -- is it Hilyer?

18 A Yeah.

19 MR. BOWLES: H-I-L-Y-E-R.

20 Q Other than that, where have  
21 you worked since leaving employment with  
22 Huff and Associates Construction Company?

23 A Hilyer. Hilyer.

1 Q Anywhere else?

2 A No. That's all.

3 Q And you say on and off?

4 A Yeah.

5 Q Did you work at Hilyer before  
6 you went to work for Huff?

7 A Yeah. Yes, sir.

8 Q Are you full time at Hilyer?

9 A Right now. Yeah.

10 Q Have you ever been part time  
11 there?

12 A Yeah.

13 Q Does Hilyer keep an employee  
14 or personnel file on you to your  
15 knowledge?

16 A No.

17 Q Would they have any records of  
18 your employment there?

19 A No.

20 Q The times you have not worked  
21 at Hilyer, what has been the reason for  
22 that?

23 A Sir? Well, I knowed him all

1 my life, and I helped him off and on, you  
2 know. I can get me a better job, and, you  
3 know, I go with him.

4 Q Now, Hilyer is an auto part  
5 store?

6 A No. Sells junk parts; motors,  
7 transmissions, all kind of stuff like  
8 that.

9 Q What's the owner's name?

10 A Charles Hilyer.

11 Q Have you had any other jobs  
12 since graduating from high school other  
13 than Huff and Associates or Hilyer?

14 A No.

15 Q When you started with Hilyer,  
16 what did you make per hour?

17 A I was making about six  
18 something when I first started helping  
19 him.

20 Q Do you have any -- can you  
21 give me a feel for the periods that you  
22 worked for Hilyer versus the periods when  
23 you haven't been employed?

1           A        Could you rephrase that?

2           Q        Yeah. I mean, as I understand  
3 it, you've been on and off with Hilyer;  
4 right?

5           A        Right.

6           Q        I need to get some feel for  
7 the times that you've been on and the  
8 times you've been off. Is there anything  
9 you can say to help me understand that?

10          A        Well, he really, you know,  
11 knows my family real good. So if I need  
12 some work, he'll let me work, you know.  
13 So that's how I've been kind of off and on  
14 with him all my life because he's always  
15 been close with my family.

16          Q        All right. And when you've  
17 worked for him, he's always paid you?

18          A        Yeah. Yes, sir.

19          Q        Has he paid you in cash?

20          A        Yeah.

21          Q        Has he paid you with a check?

22          A        No. He pays me cash.

23          Q        Does he withhold money --

1           A       On me? No.

2           Q       -- from a paycheck?

3           A       No.

4           Q       Exactly what do you do for  
5 Hilyer?

6           A       Pull motors, transmissions,  
7 car parts, doors, whatever he needs me to  
8 do.

9           Q       After graduating from high  
10 school, did you get any other education?

11          A       No.

12          Q       Trade school or anything like  
13 that?

14          A       No, sir.

15          Q       How did you come to find out  
16 that there was a job opening at Huff and  
17 Associates?

18          A       A friend -- a friend of ours  
19 that was working up there.

20          Q       What was his name?

21          A       Brad Connell.

22          Q       Brad what?

23          A       Brad Connell.

1 Q Connell?

2 A Yeah.

3 Q C-O-N-N-E-L-L?

4 A Uh-huh.

5 Q Keep going. Tell me --

6 A And he got us -- he was  
7 telling us about a -- that they needed  
8 some help up there, and he wanted him to  
9 bring a couple of guys that wanted to  
10 work. And he got me and Rodney, and we  
11 went up there. We worked for him.

12 Q How did you know Brad Connell?

13 A He always lived down the road  
14 from us, so we knewed him off and on, you  
15 know. He come by the junkyard all the  
16 time. We're pretty good friends.

17 Q Are you still friendly with  
18 Brad Connell?

19 A Yes, we are.

20 Q Does he still work for Huff?

21 A No.

22 Q What did he do for Huff? I  
23 mean, what was his job position at Huff

1       when he told you and Mr. Fraley that there  
2       was some need for --

3           A       He was -- he was a carpenter.

4           Q       Do you know how long he had  
5       worked for Huff?

6           A       I'm not sure of that.

7           Q       So he told you and Mr. Fraley  
8       that Huff needed some more employees?

9           A       Yes, sir, he did.

10          Q       Did he tell you what job site  
11       it was?

12          A       Yes, sir.

13          Q       And it was the KA house at  
14       Auburn?

15          A       Yes, sir, it was.

16          Q       And so how did you get from  
17       there to working for Huff? You said he  
18       took you up there with him?

19          A       Yeah. We rode to work every  
20       day with Brad.

21          Q       Did he take you and Mr. Fraley  
22       up there after telling you that there was  
23       some need for employees?

1           A       Yes, sir, he did. Yes, sir,  
2 he did.

3           Q       Did you go straight to the KA  
4 site?

5           A       Yes, sir, we did.

6           Q       Who did you talk to?

7           A       Bobby. Bobby Myers.

8           Q       Had you ever met Mr. Myers  
9 before this day?

10          A       No, sir, I didn't.

11          Q       Did Mr. Connell tell you  
12 anything about the job before you got  
13 there?

14          A       No. He did -- the only  
15 thing -- he told us that he needed a  
16 couple of laborers.

17          Q       To help him?

18          A       Sir?

19          Q       To help Mr. Connell?

20          A       Yeah. Yes, sir.

21          Q       So when you got to the job  
22 site, what day was this?

23          A       I can't remember exactly the

1 date.

2 Q The documents that have been  
3 produced in the lawsuit indicate that you  
4 and Mr. Fraley started sometime around  
5 June 1, 2004.

6 A Yes, sir.

7 Q Does that sound right to you?

8 A Yes, sir. Somewhere along in  
9 there. Yes, sir.

10 Q And you had never worked for  
11 Huff before then?

12 A No, sir. Never in my life.

13 Q So you and Connell and  
14 Mr. Fraley showed up at the construction  
15 site --

16 A Yes, sir.

17 Q -- one day --

18 A Yes, sir.

19 Q -- in June of 2004. And did  
20 you have a chance to talk to Mr. Myers  
21 that day?

22 A Yes, sir, we did.

23 Q Tell me about that.

1           A       Well, when I first started --  
2       first started and -- we got up there that  
3       day, and he asked me and Rodney -- but I  
4       explained to him -- I told him that I  
5       couldn't -- I couldn't get up high. I  
6       told him anything he wanted done on the  
7       ground I could do and -- because I've got  
8       a bad knee. But anything -- but he still  
9       had me doing stuff up high, getting up on  
10      scaffolds, on top of the building.

11       Q       Let me back up. When you  
12      talked to Mr. Myers that first day, did  
13      he -- did you tell him what you could do  
14      to help?

15       A       Yes, sir.

16       Q       What did you tell him?

17       A       He -- well, when I first  
18      started, he asked me -- he told me he was  
19      just going to put me on cleanup; you know,  
20      cleaning all the trash and stuff out from  
21      around the building, cleaning out the  
22      inside of the building. Because it was a  
23      lot of different crews on the site. But

1       we had the job to clean -- keep everything  
2       clean on the job site.

3           Q       So instead of working with  
4       Mr. Connell, you were assigned to kind of  
5       site cleanup?

6           A       Yes, sir.

7           Q       All right. Who else was doing  
8       that job?

9           A       Me and Rodney, and sometimes  
10      Mr. Connell helped. He was -- he was  
11      running the tractor where we was putting  
12      stuff in all around the building. And we,  
13      like, kept the tractor and stuff loaded  
14      and kept everything dumped to the  
15      Dumpsters and things like that.

16          Q       Was Mr. Connell actually a  
17      Huff employee?

18          A       Yes, sir, he was.

19          Q       And how many workers were on  
20      that job site when y'all first got there?

21          A       Talking about just -- with our  
22      crew?

23          Q       Yeah.

1           A       It was about -- probably about  
2 five of us.

3           Q       Now, when you say your crew,  
4 you mean employed by Huff?

5           A       Yes, sir. He had all us  
6 working together right there, you know.

7           Q       When you say "crew", though,  
8 are you talking about cleanup crew or the  
9 entire Huff group?

10          A       Well, no. He had -- yeah.  
11          Like, the carpenters and cleanup men. All  
12 us kind of, you know, like, had all our  
13 little section together. And they had,  
14 you know, electricians and all that -- all  
15 kind of different people was on the site.

16          Q       Subcontractors; right?

17          A       Yes, sir.

18          Q       Who did not work for Huff;  
19 right?

20          A       Right.

21          Q       Did you ever work with any of  
22 the subcontractors?

23          A       Well, we worked beside a lot

1 of them plenty of days.

2 Q Did you ever actually do  
3 anything with them, though? I mean, I  
4 understand y'all were all together.

5 A Yes, sir. No. We were  
6 real -- no, sir.

7 Q How far along was the  
8 construction project when you first got  
9 there?

10 A I can't recall exactly about  
11 how far along. But we was putting up,  
12 like, little shutter gutters and all kind  
13 of stuff like that inside -- building on  
14 the inside. Did a lot on the inside too.

15 Q And how many floors was this  
16 house?

17 A Two, I think. Upstairs. They  
18 had an upstairs.

19 Q When you got to the Huff job  
20 site that first day, did you have to fill  
21 out any paperwork?

22 A Yes, sir.

23 Q What?

1           A        You know, for -- like,  
2 application. He gave, like, an  
3 application to fill out, whatever he was  
4 paying us an hour and all.

5           Q        You filled out a job  
6 application?

7           A        Yes, sir.

8           Q        Was there a health  
9 questionnaire?

10          A        Sir?

11          Q        Was there a health  
12 questionnaire, a questionnaire about your  
13 health condition?

14          A        I can't recall. I can't  
15 recall.

16          Q        Did you fill out everything he  
17 gave you?

18          A        Yes, sir.

19          Q        What did you do with it when  
20 you filled it out?

21          A        I can't remember. I don't  
22 remember right now.

23          Q        Did you talk with any other

1       supervisors other than Mr. Myers that  
2       first day?

3           A       Not the first day.

4           Q       Were there periodically other  
5       supervisors on the site?

6           A       Yes, it was.

7           Q       Can you give me any names?

8           A       Mr. Jimmy Langley.

9           Q       What was his job?

10          A       He was the supervisor over us.

11          Q       Over who?

12          A       Me and Rodney. When Mr. Myers  
13       wasn't there, he was the head over us.

14          Q       How often was Mr. Myers  
15       absent?

16          A       From time to time, he would be  
17       out some because he had a lot of, you  
18       know, health problems, and he'd have to go  
19       out to have surgery and different kinds of  
20       stuff like that.

21          Q       Did you deal with any other  
22       supervisors other than Mr. Langley and  
23       Mr. Myers?

1           A       No, sir.

2           Q       Were there any other  
3       supervisors on the site?

4           A       I can't recall their names.  
5       But every now and then he would be on the  
6       job site.

7           Q       What was this person's title?  
8       Do you know?

9           A       He was -- I believe he was the  
10      architect. He was over the -- I think his  
11      name was Quinton.

12          Q       Quinton would be around  
13      occasionally?

14          A       Yeah.

15          Q       And did you understand that  
16      Quinton was an employee of Huff?

17          A       Yes, sir.

18          Q       Do you know whether Quinton  
19      was Bobby Myers' supervisor?

20          A       I believe so. I believe. He  
21      had a thing -- yeah.

22          Q       Did you understand that  
23      Quinton was the project manager?

1           A       Yeah. Yes, sir.

2           Q       Now, Mr. Myers is white, isn't  
3 he?

4           A       Yes, sir. Yes, he is.

5           Q       What is Quinton's race?

6           A       He's white.

7           Q       What about Mr. Langley?

8           A       White.

9           Q       What about Mr. Connell?

10          A       White.

11          Q       Do you know whether Brad  
12 Connell still works for Huff?

13          A       No, he don't.

14          Q       Where does he work?

15          A       He works with -- I can't --  
16 port-a-toilets. Dumps -- cleans  
17 port-a-toilets.

18          Q       Where does he work?

19          A       It's right over across the  
20 river here.

21          Q       Over in East Tallassee?

22          A       Yes, sir.

23          Q       Why did he leave Huff?

1           A       They -- they constantly stayed  
2       in a fuss with Mr. Myers. Him and  
3       Mr. Myers.

4           Q       Was he fired or did he quit?

5           A       No. He quit.

6           Q       Did he quit before or after  
7       you?

8           A       It was -- he quit --

9           Q       I mean, did he quit before or  
10      after you left the employment of Huff?

11       A       He quit first.

12       Q       How much did you work there  
13      after he left?

14       A       He probably worked there about  
15      -- about another month probably, close to  
16      a month.

17       Q       So that means Mr. Connell  
18      would have quit pretty soon after y'all  
19      first got there; is that right?

20       A       Excuse me?

21       Q       You're saying you worked there  
22      another month or so after Connell left?

23       A       Yes, sir.

1 Q And it's your understanding  
2 that he left that job because he and  
3 Mr. Myers used to get crossways; right?

4 A Yes, sir.

5 Q About what?

6 A Always -- you know, Mr. Myers  
7 would always kind of be cursing and  
8 fussing, just something every day, every  
9 single day.

10 Q Is that what you understand  
11 led Mr. Connell to quit, though?

12 A Yes, sir.

13 Q Are you still friendly with  
14 Mr. Connell?

15 A Sir?

16 Q Are you still friendly with  
17 Mr. Connell?

18 A Yeah. I know him. You know,  
19 I know him.

20 Q Do you see him around town?

21 A Yeah. I see him every now and  
22 then. We don't -- we don't just talk on  
23 an everyday basis, but I know him.

1           Q       After you filled out the  
2 application and the forms that Mr. Myers  
3 provided to you, did you get on to work  
4 that day?

5           A       Yes, sir.

6           Q       Did you ever interview with  
7 anyone else at Huff other than Mr. Myers?

8           A       Nobody but Mr. -- other than  
9 them, the only person we talked to was  
10 Mr. Langley because he was the  
11 supervisor over us when Mr. Myers wasn't  
12 there.

13          Q       But did you ever speak to  
14 anybody at the Huff office, the main  
15 office?

16          A       No. No, sir. No.

17          Q       Ever?

18          A       Nobody besides speaking with  
19 Quinton sometimes, you know; just  
20 speaking.

21          Q       When he was on the site -- job  
22 site?

23          A       Yes, sir.

1                   Q         Did you ever have any reason  
2 to go to the main Huff office over in  
3 Opelika?

4                   A         No, sir, I didn't. But we  
5 went there a couple of times to pick up  
6 our checks, which then we'd probably be  
7 with Mr. Langley or Mr. Myers or  
8 something.

9                   Q         Did Mr. Myers ever provide  
10 transportation for you?

11                  A         Yes, sir, he did.

12                  Q         Where?

13                  A         Sometimes he would pick us  
14 up. Like, if Mr. Connell wasn't going to  
15 work, Mr. Myers would be coming off from  
16 down at his place. He'll swing by and  
17 pick me and Mr. Fraley up and drop us off  
18 in the evening.

19                  Q         How many times did that  
20 happen?

21                  A         A couple of weeks.

22                  Q         So you told me a minute ago  
23 you had a bad knee; right?

1 A Yes, sir.

2 Q Which knee is it?

3 A It's my right.

4 Q What's wrong with it?

5 A My knee -- my knee is out of  
6 place, like up here (indicating), which it  
7 hesitates for me to do a lot of climbing,  
8 you know. But as far as work, my knee  
9 don't bother me. I do my job.

10 Q How did you injure your knee?

11 A Football.

12 Q In school or just playing?

13 A No. In school. I played for  
14 Tallassee High.

15 Q Did you ever have surgery on  
16 that knee?

17 A No, sir, I haven't.

18 Q Did you tell Mr. Myers you had  
19 a bad knee?

20 A Yes, sir, I did.

21 Q Did he say anything to you  
22 about that?

23 A He asked me could I do the

1 ground job and all the low job. I said I  
2 could.

3 Q So if you graduated from high  
4 school in '96, your knee injury would have  
5 been around for several years before you  
6 went to Huff; right?

7 A Yes, sir.

8 Q So you were telling me earlier  
9 that there was a discussion between you  
10 and Mr. Myers about you not being able to  
11 do heights because of your knee?

12 A Right.

13 Q And that at some point he had  
14 you up on heights?

15 A Yes, sir. Some occasions I  
16 did. I had to do it.

17 Q Why?

18 A We had -- well, we was -- we  
19 was doing the other little house -- little  
20 party house they had right beside the KA  
21 house, and we had to fill -- fill -- we  
22 had to bring a wheelbarrow up on top of  
23 the -- what you call it -- scaffolds. And

1       we had to take the wheelbarrows up on the  
2 scaffolds and fill in the holes and put in  
3 mud. And we was high up off the ground;  
4 real high. But that day we was kind of  
5 short of help. We didn't have no help. I  
6 didn't have no choice but to get up there  
7 and help.

8           Q       Did he ask you to get up there  
9 and do it?

10          A       Yes, he did.

11          Q       And did you object?

12          A       No, sir, I didn't.

13          Q       Did you remind him you had a  
14 bad knee?

15          A       Yes, sir. But he told me to  
16 get up there anyway.

17          Q       What did he say?

18          A       He told -- we was short on  
19 help. He said I still had to get up there  
20 and help them pour -- pour the holes, you  
21 know. We was pouring concrete down  
22 through the bars.

23          Q       Were you able to do that job?

1           A       Yes, sir, I done it.

2           Q       Did you ever re-injure your  
3 knee at Huff, on the Huff job site?

4           A       No, I didn't. No, sir, I  
5 didn't.

6           Q       Now, in the charge --  
7 discrimination charge that you filed in  
8 this case, you claim that Mr. Myers used  
9 racial slurs --

10          A       Yes, sir.

11          Q       -- in your presence.

12          A       Yes, sir.

13          Q       Tell me a little bit about  
14 that.

15          A       Well, one occasion that  
16 happened, Mr. Myers had some moles took  
17 off him. And this was on a Wednesday, I  
18 believe.

19            Anyway, one Thursday -- I think --  
20 no. It was on a Friday morning. We was  
21 at the job site. We had just got on the  
22 job site. And there was some guys  
23 cleaning bricks, you know; spraying the

1       brick. And Mr. Langley, he was on his  
2       radio -- you know, two-way radio, and he  
3       beeped in. And me and Mr. Langley and  
4       Mr. Fraley was standing out there. We was  
5       cutting up boards. And Mr. Myers asked --  
6       he asked Mr. Langley what was going on on  
7       the job, how, you know, was everything  
8       progressing. So he was -- he was on the  
9       radio with him. The guy was going slow  
10      cleaning the brick.

11           Q       Who? What was his name?

12           A       I don't know the guy. They  
13       had some guys, you know, washing, you  
14       know, the mud off the brick. Right. And  
15       Mr. Myers said he -- he said he's not  
16       going to put up with a bunch of niggers on  
17       his job site.

18           Q       Who did he say that to?

19           A       He said that to Mr. Langley,  
20       Mr. Jimmy Langley.

21           Q       Did you hear him say that?

22           A       Yes, sir, I did.

23           Q       Where were you standing?

1           A       I was standing right beside  
2 Mr. Langley and Mr. Fraley. We was on the  
3 saw horses.

4           Q       And what was your  
5 understanding of what made him say that?  
6 I mean, who was he talking about?

7           A       He just said -- he asked about  
8 what all us was doing, and he asked what  
9 the brick guy was doing when he was  
10 cleaning brick. And he told him that --  
11 Mr. Langley said, well, we all -- we was  
12 putting up the little framing for the  
13 doors, the door frames. And Mr. Langley  
14 told him, said, we, you know, had a little  
15 slow start. And he -- that's when --  
16 that's when he said -- he asked something  
17 about the guys that was spraying the  
18 brick. He said, well, I'm not going to  
19 put up with a bunch of niggers on my job.

20          Q       And he said that to  
21 Mr. Langley?

22          A       That's right. On the two-way  
23 radio. Mr. Myers was out. He had

1 surgery, getting moles off him.

2 Q I hear you. Did you hear  
3 Mr. Myers -- were you standing by  
4 Mr. Myers or Mr. Langley?

5 A I was standing beside  
6 Mr. Langley. Mr. Myers wasn't on the  
7 site. He was on his two-way radio.

8 Q So you heard it through the  
9 two-way radio?

10 A Yes, sir, I did.

11 Q What did Mr. Langley say to  
12 that -- in response to that?

13 A He kind of -- he kind of,  
14 like, laughed -- he kind of, like, laughed  
15 it off and told me and Mr. Fraley he was  
16 just kidding.

17 Q All right. Was that the first  
18 time you had heard Mr. Myers use racial  
19 slurs?

20 A No, sir, it wasn't.

21 Q Tell me about the first time.

22 A One day we was -- we was  
23 all -- me and Mr. Langley and Mr. Myers

1 was eating lunch. And we had a little  
2 trailer we would go in and sit and eat  
3 lunch sometimes. And we was -- we was  
4 just sitting there, and all of us was  
5 talking. And he told us -- he told us, he  
6 said, y'all's kind don't know nothing.

7 Q What were you talking about?

8 A We were just sitting there  
9 talking, you know, about jobs, working.  
10 And he -- you know, sometimes he may ask  
11 us could we do this or that. And then,  
12 you know, we'd just be talking or joking,  
13 and he'll make up all kind of remarks and  
14 -- we're trying to work. You can't work  
15 with nobody -- with somebody constantly  
16 cursing you every day. I can't work  
17 around nobody like that.

18 Q Specifically, what were y'all  
19 talking about when he said, your kind  
20 don't know nothing?

21 A We was sitting there  
22 talking -- he was asking us something  
23 about on the job, and we was sitting there

1 just talking. He said, all y'all kind  
2 don't know nothing.

3 Q Who did he say that to?

4 A He said that to me and  
5 Mr. Fraley. We was sitting there, and we  
6 was just talking, in a conversation.

7 Q Was Jimmy there?

8 A And I asked him -- yeah.

9 Mr. Langley was sitting right there eating  
10 his lunch too.

11 Q Anyone else hear --

12 A And I --

13 Q Anybody else hear that?

14 Anybody else present for that statement?

15 A No, sir. Just me,

16 Mr. Langley, Mr. Fraley, and Mr. Myers.

17 Q And this was during lunch one  
18 day?

19 A Yes, sir.

20 Q On the job site?

21 A Right.

22 Q Did you or Mr. Fraley or  
23 Mr. Langley say anything in response to

1           that statement?

2           A        No. I just asked him what he  
3           meant by that. He said, you know what I  
4           mean.

5           Q        And you said what?

6           A        Sir?

7           Q        Did you say anything else?

8           A        No. I left it at that.

9           Q        Did he say anything else about  
10          what he meant by that?

11          A        No.

12          Q        And this was before the  
13          statement that he made over the two-way  
14          radio you told me about a minute ago?

15          A        Yeah. This happened before  
16          then.

17          Q        What was Mr. Myers -- when he  
18          said that about your kind don't know  
19          nothing --

20          A        Yes, sir.

21          Q        -- what was his demeanor? I  
22          mean, was he angry or just talking to you?

23          A        I mean, sometimes he'd just

1 say stuff out of proportion. I don't know  
2 why. I don't know the reason. But that's  
3 why I want to know why.

4 Q Like what? What do you have  
5 in mind when you say that?

6 A I mean, you know, sometimes,  
7 you know, he'll call us dumb, stupid, just  
8 out of mind. I don't know why.

9 Q Who is "us"?

10 A Me and Mr. Fraley.

11 Q All right. Well, would he  
12 make similar comments to other employees?

13 A No.

14 Q You never heard him make  
15 similar comments to other employees?

16 A I mean, Mr. Connell sometimes.

17 Q All right. Would he get on to  
18 Mr. Connell sometimes?

19 A Yes, sir.

20 Q And make statements like  
21 calling him dumb or stupid or something  
22 like that?

23 A No. He ain't never really

1       said that to him in his face.

2           Q        What's your understanding of  
3 why he and Mr. Connell would have these  
4 conversations?

5           A        I don't know. Most of the  
6 time they -- them two would be playing  
7 sometimes every day. But I didn't really  
8 play like that. I went there to do my  
9 job.

10          Q        Did Mr. Myers ever make  
11 statements to you to the effect that you  
12 needed to get to work or do your job or  
13 anything like that?

14          A        Oh, yes, sir. Yes, sir.

15          Q        Were there ever any occasions  
16 where you were not doing your job and  
17 should have been?

18          A        No. We always done our job.  
19 Every morning when we got to work, he'll  
20 tell us, you know, we've got to clean up  
21 around the building. He'll assign us to  
22 our job, and we'll go be doing that,  
23 because it was a lot of trash, wood,

1       everything around the building. So every  
2 morning we got to work, he told us before  
3 we got started what we needed to get  
4 started doing.

5           Q        What time would y'all  
6 typically get to the job site in the  
7 morning?

8           A        Most of the time we got there  
9 about -- one time we was going in at,  
10 what, six, I believe. Six. Sometimes we  
11 went at six, sometimes we went at seven.  
12 But every morning we usually get there --  
13 we'd get there about fifteen minutes till  
14 or twenty minutes till.

15          Q        And what time would you  
16 typically quit for the day?

17          A        Sometimes we was -- we'll come  
18 in real early. Like, on Friday we'll come  
19 in early and get off around two,  
20 two-thirty. We're through with everything  
21 we did. And through the week we'd usually  
22 get off at three-thirty. Like, if we're  
23 pouring concrete or something, it will be

1       later. You know, we stayed until we got  
2       the job done, like if we was pouring  
3       concrete. Different times.

4           Q       The conversation you were  
5       telling me about a moment ago with  
6       Mr. Fraley and Mr. Langley when he said,  
7       your kind don't know anything --

8           A       Yes, sir.

9           Q       -- in that conversation did he  
10      make any other derogatory statements about  
11      any other employee or to any other  
12      employee?

13          A       No, sir. No, sir. Not that I  
14      recall.

15          Q       Did you ever hear Mr. Myers  
16      make derogatory comments toward Hispanic  
17      workers?

18          A       Oh, yes, sir.

19          Q       Like what?

20          A       He'd say -- one day he told  
21      them they don't know nothing. They need  
22      to go back where they came from.

23          Q       Do you understand -- have an

1 understanding of what prompted him to say  
2 that?

3 A I don't know.

4 Q Do you know whether --

5 A I don't know.

6 Q Do you know whether someone  
7 had mishandled some part of the job or  
8 something?

9 A No, sir. Them guys was doing  
10 their job, doing it hard.

11 Q You don't have any  
12 understanding as to why he said that?

13 A No, sir, I don't.

14 Q How many Hispanic workers were  
15 on that job site?

16 A Well, when we was working, he  
17 hired two more -- two more Mexican guys.

18 Q Do you know their names?

19 A I don't remember their names  
20 right now. No. I can't recall their  
21 names.

22 Q So how many were there?

23 A It was two of them.

1 Q Two?

2 A Yes, sir. It was a dad and a  
3 son.

4 Q Have you talked to them --

5 A No, sir.

6 Q -- about your claims?

7 A I've never seen them guys  
8 since.

9 Q Did you ever hear Mr. Myers  
10 say anything else derogatory to the  
11 Hispanic employees?

12 A Yes, he did.

13 Q Like?

14 A He'll just tell them they  
15 don't know what they're doing. They need  
16 to get down and all kind of stuff.

17 Q Were there other African-  
18 American employees on the job site other  
19 than you and Mr. Fraley?

20 A On the site period?

21 Q Yes.

22 A Yes, it was.

23 Q Did you ever hear Mr. Myers

1 make derogatory comments to them?

2 A Yeah. He'll, like, you know,  
3 get to fussing at them or hollering or  
4 something if they ain't doing something  
5 the exact way he wants it. And he'll  
6 start fussing.

7 Q Did you ever hear --

8 A Get an attitude, get loud,  
9 start hollering.

10 Q Did you ever hear Mr. Myers  
11 make any racial slurs toward any of the  
12 other black employees?

13 A No, sir. Not that I recall.  
14 No, sir.

15 Q All right. Other than what  
16 we've talked about, did you ever overhear  
17 or witness Mr. Myers making any other  
18 racial slurs or comments at all other than  
19 what you already told me?

20 A No. Not that I recall.

21 Q Have you told me about all of  
22 the racially derogatory slurs that you  
23 heard Mr. Myers make during your time at

1 Huff?

2 A Yes, sir. He made them  
3 plenty, but I -- that's all that I really  
4 can think of.

5 Q Did you make any recordings or  
6 notes about anything he said --

7 A No, sir.

8 Q -- at the time?

9 A No, sir.

10 Q Now, as I understand it, your  
11 last day at Huff was Monday, July 26,  
12 2004?

13 A Yes, sir. Right.

14 Q Tell me about the  
15 circumstances that caused that to be your  
16 last day.

17 A Well, one day -- on this  
18 particular day, we was working down on the  
19 party house, me and Mr. Fraley, Mr. Myers,  
20 and the two Mexicans. And it started  
21 coming up a real bad storm. It started  
22 thundering and lightning. And we were --  
23 had the cord ran on the outside because we

1 was drilling holes inside the building.  
2 And it was raining and thundering and  
3 lightning real bad. And so I told the  
4 Mexican guys, I said, you need to get  
5 down, and we need to put up the cord.

6 So when Mr. Myers came back around,  
7 he asked us what in the hell we were doing  
8 putting up the cords. And I said, it's  
9 coming up a storm. I said, we need to get  
10 out of the lightning. He said, you don't  
11 get out of the lightning till I tell you  
12 to. And he just went off, went off and  
13 on.

14 And I told him, I said, I'm not  
15 going to work -- work in the lightning  
16 with -- around electricity. And he went  
17 off on me and all that. And he told me,  
18 he said, I'll tell you what. You just  
19 stay -- you just stay at home tomorrow. I  
20 said, fine.

21 So he dropped me off that evening,  
22 and the next day he didn't pick me up. So  
23 I know he picked Mr. Fraley up. He didn't

1 pick me up the next day. And --

2 Q Let me stop you real quick.

3 So after he said this, he drove you home

4 --

5 A Yeah.

6 Q -- back here in Tallasssee?

7 A That's right.

8 Q Did he say anything else to  
9 you on the way home about your position?

10 A No, sir. He didn't -- he just  
11 told me to take tomorrow off. I asked  
12 him -- I said, so I'm fired? He didn't --  
13 he didn't say. He said, just stay at home  
14 tomorrow. But he told Mr. Fraley the next  
15 day that I was -- that I was fired.

16 Q And you said he didn't come  
17 pick you up?

18 A Yeah. He didn't pick me up.

19 Q And then you later heard from  
20 Mr. Fraley that --

21 A Yeah. He -- well, Mr. Fraley  
22 told --

23 Q -- Mr. Myers told Mr. Fraley

1 that you were fired?

2 A Yes, sir. That's right. He  
3 didn't come -- didn't tell me to my face.  
4 He told him.

5 Q Did you ever go back to the  
6 job site after that?

7 A No, sir. I don't call -- I  
8 never went back.

9 Q Did you ever talk to Mr. Myers  
10 again after that?

11 A No. Because I never went  
12 back.

13 Q Well, did you talk to him on  
14 the phone?

15 A No, sir. Never. Never said  
16 another word to him.

17 Q Did he use any racial slurs  
18 when y'all were talking about getting in  
19 from the rain?

20 A No. No, sir. Not that I  
21 recall. He just told us that we don't  
22 put -- we don't put up cords until he  
23 said -- he tells us.

1           Q         Did anybody else witness that  
2 conversation about getting in from the  
3 rain other than you and Mr. Myers?

4           A         The only people -- the only  
5 people was there at that time -- because  
6 when it started storming, everybody  
7 started to leave the job site. You know,  
8 when it comes a real bad storm, it's  
9 thundering and lightning, everybody would  
10 leave, you know, when we've got weather  
11 like that. But nobody was there but me,  
12 Mr. Fraley, Mr. Myers, and the two Mexican  
13 guys, was the only guys there that  
14 evening.

15          Q         Did you ever talk with Quinton  
16 about Mr. Myers' behavior?

17          A         No, sir, I didn't.

18          Q         Ever complain to Quinton?

19          A         No, sir, I didn't.

20          Q         Did you ever seek out anybody  
21 else at Huff to discuss Mr. Myers'  
22 behavior?

23          A         No, sir, I didn't.

1 Q Did Mr. John Huff ever come to  
2 the work site while you were there?

3 A Yes, sir. But I never talked  
4 with him.

5 Q Did you know who he was when  
6 he was on the site?

7 A Just by, you know, somebody  
8 saying who he was, you know. I didn't  
9 know him.

10 Q Can you give me the names of  
11 any other people, other than you've told  
12 me about, that would support the  
13 allegations you've made in this lawsuit?

14 A Yes, sir. Mr. Jerry Garrett.

15 Q Jerry Garrett?

16 A Yes, sir.

17 Q Who is he?

18 A It's a guy -- one day we was  
19 going back on -- on the site to pick up  
20 our last check. And me and Rodney, we had  
21 owed Mr. Myers five dollars apiece we had  
22 borrowed from him one day during the week  
23 for lunch. And he had our last checks.

1                   And he -- Mr. Garrett took us up on  
2 the job site to pick up our last check.  
3 And we met Mr. Langley and Mr. Myers.  
4 They was coming out of the job site and we  
5 was pulling in, so I stopped. And he  
6 stopped and rolled down the window. I  
7 asked him could we get our checks. He  
8 said, y'all got my five dollars? I said,  
9 no, sir, we don't have it. I said, we  
10 ain't got it right now. You can follow us  
11 to the bank. He said, I ain't got time  
12 for that shit. He said, you ain't getting  
13 your check till I get my five dollars  
14 apiece. And he pulled off on me. And  
15 then he stopped, and he backed up,  
16 cussing. He said, I want my damn five  
17 dollars. I said, we said you can stop  
18 over there at the bank and pick it up.  
19 Oh, I ain't got time for that shit. And  
20 he pulled off.

21                   Q         Well, did you get your check?  
22                   A         Yeah. He backed up and  
23 finally gave it to us.

1 Q How long after that did you  
2 get your check?

3 A It was just a few minutes. He  
4 finally gave it to us before he left. He  
5 pulled off like he was going to spin off  
6 and leave, and he backed up, and he  
7 finally gave us our check.

8 Q Did you ever give him his five  
9 dollars back?

10 A We never seen him no more  
11 after that. No, we didn't. We never seen  
12 him no more since we got our last check.

13 Q So are you saying that the day  
14 that this discussion about the five  
15 dollars -- was this your last day of work?

16 A No, sir. We -- after that --  
17 I never went on the job again. We had to  
18 go back and pick up one more -- our last  
19 check from the site, and we went back that  
20 Friday. We had to come that Friday to  
21 pick up the check.

22 Q So you did go back to the job  
23 site after you were --

1           A       Yes, sir. To pick up a  
2 check. We had to come up there. He told  
3 us to come up there. Well, my mom called,  
4 and he said we could come pick up our  
5 check between two and -- two and four  
6 because he was going to leave there at  
7 four o'clock. So we went up to get our  
8 check. And Mr. Garrett took us up on the  
9 job site.

10          Q       Who is "us"? Who is "us"?

11          A       Me and Mr. Fraley.

12          Q       All right. Go ahead.

13          A       We went up there to get our  
14 last check, and he was just -- he was so  
15 rude about giving us our check, cussing  
16 us. But he finally gave us our check.

17          Q       Was anyone else with you other  
18 than Mr. Fraley?

19          A       Mr. Garrett.

20          Q       And Garrett.

21          A       Yeah.

22          Q       Anybody else?

23          A       No, sir. Just me and

1           Mr. Fraley and Mr. Garrett.

2           Q         Who else are you aware of that  
3                   can speak to Mr. Myers' behavior?

4           A         Well, we had Mr. Connell. He  
5                   was working on the site. And Earl --  
6                   Bobby Nichols. He was working on the  
7                   site.

8           Q         Who is Bobby Nichols? Is he a  
9                   Huff employee or a subcontractor?

10          A         Yeah. He was working there.  
11          He was working there at the time too.

12          Q         What's his race?

13          A         He's white.

14          Q         What about Garrett?

15          A         White.

16          Q         Who else?

17          A         Travis Gilson also. He worked  
18          up on the site -- job site.

19          Q         What's his job?

20          A         White guy. He was a  
21          carpenter.

22          Q         He worked for Huff?

23          A         Yes, sir, he did.

1 Q Anybody else that can speak to  
2 these allegations other than these guys?

3 A Well, it was another dude that  
4 was working with us, John -- Johnny  
5 McDade.

6 Q McDade?

7 A Yes, sir. John -- Johnny  
8 McDade.

9 Q What's his position?

10 A He was a -- he was a carpenter  
11 also.

12 Q Huff employee?

13 A Yes, sir.

14 Q White or black?

15 A White.

16 Q Who else?

17 A That's about all I can recall  
18 the names that were working there right  
19 now.

20 Q Can you think of any other  
21 individual that could speak to Mr. Myers'  
22 behavior and language other than who  
23 you've told me about?

1           A       I can't really recall none of  
2 the other guys because I didn't really  
3 know them. Like I said, it was several  
4 different crews on the job.

5           Q       Was there an office kind of --  
6 you know, like a trailer --

7           A       Yes, sir.

8           Q       -- with an office on the job  
9 site?

10          A       Yes, it was. That's where we  
11 ate lunch and stuff at, in a little  
12 trailer. They had a little trailer  
13 sitting on the site there.

14          Q       When you started working for  
15 Huff, were you given any documentation or  
16 anything? You told me you filled some  
17 things out and gave them back to  
18 Mr. Myers. Remember?

19          A       Yes, sir. Like -- an  
20 application is what it was.

21          Q       I understand. Were you given  
22 any documentation addressing any aspect of  
23 your employment with Huff?

1           A       No, sir. Not that I can  
2 recall.

3           Q       Were you ever given any kind  
4 of documents that discussed any part of  
5 your employment with Huff?

6           A       No, sir. Like I said, when we  
7 first started, he gave us, like, an  
8 application, you know, to fill out for the  
9 tax -- tax purpose.

10          Q       I think I asked you this. But  
11 did you ever re-injure your knee?

12          A       No, sir, I didn't.

13          Q       Ever do anything to cause it  
14 to hurt worse on the job?

15          A       No, sir, I didn't.

16          Q       Did you ever consider asking  
17 Mr. Myers to reconsider letting you go?

18          A       One -- one else -- when we  
19 first started. And Mr. Connell was still  
20 there. And me and him had got in a fuss  
21 one day, and he had told me -- he had told  
22 me, said, don't -- just leave and don't  
23 come back. And the next day I came

1 back -- back on the job site, and I told  
2 him, I said, I need to work, Mr. Myers.  
3 And we, you know -- I said, I need my  
4 job. And he let me came (sic) back to  
5 work. He let me came (sic) back to work.

6 Q How long were you off the job?

7 A One day. That was it.

8 Q All right. Are you saying  
9 that he let you go and then let you come  
10 back?

11 A Yes, sir.

12 Q Mr. Myers --

13 A Yes, sir.

14 Q -- terminated you and let you  
15 come back?

16 A Yes, sir, he did.

17 Q Well, after you were told by  
18 him not to come back after that storm  
19 issue -- remember?

20 A Yes, sir. That was it.

21 Q I understand. Did you ever  
22 consider going back and trying to get your  
23 job back?

1                   A         No, sir. I didn't after --  
2 after that. No, sir.

3 Q Did you ever consider talking  
4 to anybody else at Huff about what had  
5 happened?

6 A No, sir, I didn't.

7 Q Were there any other project  
8 managers assigned to that job site other  
9 than Quinton while you were there?

10                   A         No, sir. Not while I was  
11 there.

12 (WHEREUPON, a document was  
13 marked as Defendants' Exhibit Number 1 and  
14 is attached to the original transcript.)

15 Q Let me show you real quick a  
16 discrimination charge that was filed on  
17 your behalf. Do you recognize that?

18 A Yes, sir.

19 Q Is that your signature at the  
20 bottom?

21 A Yes, sir.

Q Did you provide the information in that to your law

1 Mr. Bowles?

2 A Yes, sir, I did.

3 Q When did you first decide to  
4 see a lawyer about Huff?

5 A Well, actually, I -- my  
6 friend, Rodney -- it had got so bad, the  
7 stuff he was saying. And then when --  
8 certain slurs he said to us, I wanted to  
9 hit him, but I didn't.

10 Q Hit who?

11 A I wanted to -- I really wanted  
12 to hit Mr. Myers because of some of the  
13 stuff he would say, calling us dumb,  
14 stupid, don't know this, and we're dumb  
15 and all that kind of stuff, our kind don't  
16 know nothing. You don't talk to people  
17 like that, sir. It ain't about that.  
18 That's wrong. That's wrong.

19 MR. BOWLES: What was the  
20 question?

21 MR. WILSON: I think the last  
22 question was when did he first see a  
23 lawyer.

1           A       Yeah. After -- after that  
2 day, when all -- after the storm, when all  
3 of it happened. And my friend, Rodney, he  
4 said -- he told me -- he said, don't do  
5 nothing. You need to -- we need to go see  
6 a lawyer about him.

7           Q       Mr. Bowles is the first person  
8 you came to see?

9           A       Yes, sir. That's right.

10          Q       And, again, just so I'm clear,  
11 have you told me about all of the  
12 racially --

13          A       Yes, sir.

14          Q       -- oriented language that he  
15 used in your presence?

16          A       Yes, sir. All that I can  
17 recall right now.

18          Q       And you've given this a good  
19 bit of thought, haven't you --

20          A       Yes, sir.

21          Q       -- before today?

22          A       Yes, sir.

23          Q       And that's all -- what you've

1 told me is all you can recall that he  
2 said?

3 A All I recall.

4 MR. BOWLES: I believe he said  
5 right now.

6 Q Mr. Buckhanon, have you ever  
7 been arrested?

8 A Yes, sir, I have.

9 Q How many times?

10 A About once or twice.

11 Q For what?

12 A A ticket, fines. That's it.

13 Q Traffic things?

14 A Yeah. Traffic tickets.

15 That's it. City jail. Never been in a  
16 county jail in my life.

17 Q You were actually put in a  
18 city jail over a traffic ticket?

19 A You know, like, failure to pay  
20 the fine off.

21 Q Ever been convicted of any  
22 crimes?

23 A No, sir, I haven't.

1 Q And you haven't worked for  
2 anybody else since leaving Huff other than  
3 Hilyer?

4 A Yes. That's it.

5 Q On and off you say?

6 A Yes, sir.

7 Q On this discrimination charge,  
8 you stated that your last day of work was  
9 July 26th; right?

10 A Something like that.

11 Q Do you have any reason to  
12 doubt that, the accuracy of that?

13 A It was somewhere along in  
14 there. I can't recall the exact date  
15 right now.

16 Q So do you have any reason to  
17 dispute that you worked at Huff from about  
18 June 1, 2004, to about July 26, 2004?

19 A Yes, sir. Something like  
20 that.

21 Q Just a little less than two  
22 months?

23 A Yes, sir. That's right.

1 Q And what was your rate of pay  
2 at Huff?

3 A When I left -- at first we was  
4 making about nine fifty, I believe.

5 Q What did you start at? Do you  
6 know?

7 A He started us off with  
8 eight -- eight fifty -- eight dollars. It  
9 may have been eight dollars an hour, I  
10 believe. Yeah. We was making eight, and  
11 he moved us up to nine.

12 Q When?

13 A After we got to working. And  
14 he told us if we progressed on our work  
15 and showed improvement, he'll move us up  
16 to nine dollars an hour. And he pushed us  
17 up to nine dollars an hour.

18 Q A minute ago you said nine  
19 fifty.

20 A Something like that.

21 Q Nine or nine fifty?

22 A Nine, nine fifty, something  
23 like that. I know we got a raise.

1 Q When you say "he", are you  
2 talking about Myers?

3 A Yes, sir. Mr. Myers gave us a  
4 dollar raise.

5 Q Did you have any benefits  
6 through that job other than just salary --  
7 I mean, not salary, but pay?

8 A No. That's about all we had.

9 Q I mean, no health insurance?

10 A No. No, sir.

11 Q No other kinds of benefits?

12 A No, sir. I don't recall. No,  
13 sir.

14 Q Have you ever had any kind of  
15 benefits through Hilyer?

16 A No, sir.

17 Q All right. I think I'm about  
18 through. Before I finish, can you think  
19 of any other statements that Mr. Myers  
20 made to you or in your presence?

21 A No, sir, not right now. I  
22 don't recall at this time.

23 Q Is there anything else about

1 your claims that you consider to be  
2 important that we haven't talked about?

3 A No, sir. Not at this time.

4 No, sir.

5 Q That's all. Thank you.

6 MR. BOWLES: I want to ask him  
7 one or two questions.

8

9 EXAMINATION BY MR. BOWLES:

10 Q Mr. Buckhanon, you testified  
11 about a conversation that took place when  
12 you and Rodney Fraley and Mr. Myers and  
13 one other employee -- I don't know if it  
14 was Mr. Connell or Mr. Langley -- was  
15 present where Mr. Myers said something to  
16 the effect that, your kind don't know  
17 anything.

18 A Yes, sir.

19 Q Do you remember that?

20 A Yes, sir.

21 Q Now, when you filed this claim  
22 with EEOC, you stated that you overheard  
23 Mr. Myers say, your kind don't know

1 anything; is that correct?

2 A Yes, sir. Yes, sir.

3 Q You go on to say in that same  
4 conversation with Mr. Myers, and referring  
5 to another black employee, said, niggers  
6 like him don't know anything.

7 A Yeah.

8 Q Did he say that?

9 A That was me and Mr. Fraley.

10 Q Now, did Mr. Myers say those  
11 words, niggers like him don't know  
12 anything?

13 A Yes, sir. Yes, he did.

14 Q Who was he referring to?

15 A You're talking about when we  
16 was outside?

17 Q I don't know.

18 A We was inside the trailer, and  
19 that's when he -- that fact.

20 Q Did he say those words?

21 A Yes, sir, he did.

22 Q And were you and Mr. Fraley  
23 sitting there listening to him?

1           A       Yeah.  We ate lunch just about  
2 every day together, me, Mr. Fraley, and  
3 Mr. Myers and Mr. Langley.

4           Q       Who was Mr. Myers referring to  
5 when he said, niggers like him don't know  
6 anything?

7           A       Like, y'all.  He committed to  
8 say, like y'all.

9           Q       Like y'all?  He was talking  
10 about you and Rodney?

11          A       Yeah.

12           MR. BOWLES:  That's all.

13

14 FURTHER EXAMINATION BY MR. WILSON:

15          Q       When he made that comment,  
16 though, he wasn't saying -- he didn't say  
17 it in reference to you?

18          A       No.  He said "y'all".  He put  
19 it "y'all".

20          Q       That's not what this sworn  
21 statement says.  Do you want to take a  
22 look at it?  Look down at the bottom of  
23 the paragraph.

1 MR. BOWLES: I think it goes  
2 over to the second page.

3 MR. WILSON: It does. It  
4 does.

5 A It says him right there.

6 Q Right. In that latter quote  
7 that you put in your sworn statement to  
8 the EEOC, it says, niggers like him don't  
9 know anything.

10 A Right.

11 Q Now, Mr. Bowles was wanting to  
12 know, I think, who he was talking about.

13                   A         He was talking -- he was  
14 referring to us because wasn't nobody in  
15 the room but me, Mr. Myers, Mr. Fraley,  
16 and Mr. Langley.

17 Q Right here where it says,  
18 niggers like him don't know anything, who  
19 is "him"?

20                   A         He was quoting to me and  
21 Mr. Fraley. Wasn't nobody else there but  
22 me and Mr. Fraley.

23 Q I understand he was making the

1 statement in your presence.

2 A Right.

3 Q But who was he talking about?

4 Who was the "him" in this statement?

5 A The only person he ever made  
6 comments to was me and Mr. Fraley.

7 Q About who, though?

8 A About who?

9 Q Yeah. It says -- your  
10 statement that you signed says, Mr. Myers,  
11 in referring to another black employee,  
12 said, quote, niggers like him don't know  
13 anything.

14 A No. He was talking -- he was  
15 talking about me and Fraley --  
16 Mr. Fraley. We're the only ones that he  
17 ever talked to really. Like, when we had  
18 lunch, he'll come up with all kind of  
19 conversations talking to me and  
20 Mr. Fraley.

21 Q What had you and Mr. Fraley  
22 done to make him say that y'all didn't  
23 know anything?

1                   A         It just -- different days.  
2 Like, we'd be at work. And, like, we'd be  
3 at lunch. He'll be talking about stuff  
4 that we have been doing all day. And then  
5 he'll tell us we don't know how to do such  
6 and such things. And we might come up and  
7 say, yes, we do know how to do this. And  
8 he might come back with a statement of  
9 saying we don't know -- you know, we don't  
10 know how to do nothing. He always said,  
11 y'all are dumb, stupid, all that kind of  
12 stuff like that.

13                  Q         If I understand you correctly,  
14 he'd make similar statements to the other  
15 employees?

16                  A         Not every -- not everybody  
17 every day. And Mr. Connell, he gets on  
18 him sometimes. And he cusses anybody out;  
19 any electric guys, any of them on the  
20 job. If he come in there, he'll holler  
21 and fuss and cuss. He did it every single  
22 day.

23                  Q         And he did it to the Hispanic

1 employees?

2 A Yes.

3 Q And the white employees?

4 A That's right. But he just be  
5 cussing. Sometimes he'd just come in.  
6 And I don't know why he did it, but he did  
7 it.

8 Q But in terms of racial slurs,  
9 use of the "N" word, things like that --

10 A That's right.

11 Q -- you heard him one time over  
12 the two-way radio make that statement we  
13 talked about earlier?

14 A Yes, sir.

15 Q You were standing there with  
16 Jimmy Langley; right?

17 A Yeah.

18 Q All right. And then --

19 A And in the trailer.

20 Q Yeah. Right. And then a  
21 second occasion in the trailer when you  
22 and Mr. Myers --

23 A And Mr. Fraley.

1 Q -- and Mr. Fraley --  
2 A And Mr. Langley.  
3 Q -- and Mr. Langley were all  
4 sitting together eating lunch; right?  
5 A Right.  
6 Q He made the other statement --  
7 he said, your kind don't know anything.  
8 A Yes, sir.  
9 Q And then in the same  
10 conversation, he said, quote, niggers like  
11 him don't know anything.  
12 A No. He said, niggers like  
13 y'all don't know anything.  
14 Q That was all in one  
15 conversation in the trailer?  
16 A Yeah. At different times, you  
17 know. Every day we took lunch, and it be  
18 us four always taking lunch together.  
19 We'll go up to the store and get us  
20 something to eat, and we'll be sitting  
21 there, and he'll just come up with  
22 something. You know, come up with another  
23 something like we'd be done done it that

1 day and we didn't do it right or, you  
2 know, just different kind of stuff. He'll  
3 get to talking about it. And if we're  
4 saying something about it, he'll get mad  
5 and get to cussing and fussing about it.

6 Q I understand what you're  
7 saying. What I'm trying to make sure I  
8 understand is, the racial slurs that you  
9 heard was the one over --

10 A Yes, sir.

11 Q The only ones you heard --

12 MR. BOWLES: Let him finish  
13 the question before you go to answer it.

14 Q You heard the statement he  
15 made over the two-way radio to Jimmy  
16 Langley?

17 A Right.

18 Q And he wasn't talking about  
19 you when he made that statement, was he?  
20 He was talking about somebody washing a  
21 wall?

22 A No. That's meaning to  
23 everybody that was on the job. He said,

1 I'm not going to put up with a bunch of  
2 niggers on my job.

3 Q Did he even know you were  
4 standing there?

5 A He didn't know we was there.  
6 That's the point.

7 Q He made that statement over a  
8 two-way radio to Mr. Langley; right?

9 A That's right.

10 Q And then there is one other  
11 occasion where you heard him use racial  
12 slurs, and that was in the trailer where  
13 y'all were eating lunch together?

14 A That's right.

15 Q That's it?

16 A Yes, sir.

17 MR. WILSON: That's all.

18 MR. BOWLES: Nothing further.

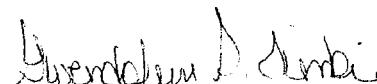
19

20 FURTHER DEPONENT SAITH NOT

21

22

23

1                   C E R T I F I C A T E  
2  
3                   STATE OF ALABAMA )  
4                   MONTGOMERY COUNTY )  
5                   I hereby certify that the above  
6                   and foregoing deposition was taken down by  
7                   me in stenotype, and the questions and  
8                   answers thereto were transcribed by means  
9                   of computer-aided transcription, and that  
10                  the foregoing represents a true and  
11                  correct transcript of the deposition given  
12                  by said witness upon said hearing.  
13                  I further certify that I am  
14                  neither of counsel nor of kin to the  
15                  parties to the action, nor am I in anywise  
16                  interested in the result of said cause.  
17  
18                    
19                  GWENDOLYN P. TIMBIE, CSR  
20  
21                  My Commission Expires  
22                  March 4, 2009  
23

GWENDOLYN P. TIMBIE, CSR  
Certificate No: AL-CSR-569

CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
<small>This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.</small>		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	130-2004-04248
<small>and EEOC</small>			
<small>State or local Agency, if any</small>			
NAME (Indicate Mr., Ms., Mrs.) Mr. Barry Lewis Buckhanon		HOME TELEPHONE (Include Area Code) (334) 283-8427	
STREET ADDRESS 497 Kent Road	CITY, STATE AND ZIP CODE Tallassee, Alabama 36078		DATE OF BIRTH 11/24/76
<small>NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)</small>			
NAME Huff & Associates Construction Co., Inc.	NUMBER OF EMPLOYEES, MEMBERS Unknown		TELEPHONE (Include Area Code) (334) 749-0052
STREET ADDRESS 1220 Fox Run Pkwy.; PO Box 2427; Opelika, Alabama 36803-2427	CITY, STATE AND ZIP CODE		COUNTY Lee
NAME	TELEPHONE NUMBER (Include Area Code)		
STREET ADDRESS	CITY, STATE AND ZIP CODE		COUNTY
<small>CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))</small>		<small>DATE DISCRIMINATION TOOK PLACE EARLIEST (ADEA/EPA)      LATEST (ALL)</small>	
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> AGE  <input type="checkbox"/> RETALIATION <input type="checkbox"/> NATIONAL <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify) ORIGIN			<input type="checkbox"/> CONTINUING ACTION
<small>THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):</small>			
<p>My name is Barry Lewis Buckhanon and I reside at 497 Kent Road in Tallassee, Alabama 36078. I am currently 27 years of age with a date of birth of November 24, 1976. I completed the 12<sup>th</sup> grade at Tallassee High School in Tallassee, Alabama. My race is black or African American.</p> <p>On or about June 1, 2004, I went to work for Huff &amp; Associates Construction Company, Inc. (hereinafter "Huff &amp; Associates") as a laborer. The superintendent on the job site where I was initially employed was a long-time employee of Huff &amp; Associates by the name of Bobby Myers. During the entire time that I worked for Huff &amp; Associates, Mr. Myers was constantly cursing, ridiculing, insulting and otherwise intimidating the minority employees working under his supervision. Mr. Myers routinely used racial slurs in referring to black employees. Mr. Myers made no attempt to hide or suppress his racist views. I have personally heard Mr. Myers use a variety of racially derogatory terms in referring to black and other minority employees. On one occasion I overheard Mr. Myers say, "I ain't going to put up with a bunch of ignorant niggers on my job". On another occasion Mr. Myers became enraged over something and in speaking directly to me and another black employee by the name of Rodney Fraley said, "Your kind don't know anything". In that same conversation Mr. Myers, in referring to (See Continuation Page)</p>			
<small>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</small>		NOTARY - (When necessary for State and Local Requirements)	
		<small>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</small>	
<small>I declare under penalty of perjury that the foregoing is true and correct.</small>		<small>SIGNATURE OF COMPLAINANT</small>	
		<small>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)</small>	
Date 8/30/04	Charging Party (Signature)		
EEOC FORM 5 (10/94)			

DEFENDANT'S EXHIBIT

**The Particulars Are:**  
(Continuation Page)

another black employee, said, "Niggers like him don't know anything". Mr. Myers also made insulting and denigrating comments to the Hispanic workers on the job site. For instance, he would tell them that "they needed to go back to Mexico and that they did not know anything". Since Mr. Myers was the highest ranking employee of Huff & Associates on the job site, his constant cursing, ridiculing, insulting and otherwise intimidating behavior created a hostile work environment for all minority employees including myself.

My last day to work for Huff & Associates was Monday, July 26, 2004. On that day Mr. Myers got angry with me because I asked if some of the other workers could get in out of the rain. Later that day Mr. Myers told me "Don't come to work tomorrow - take tomorrow off". I expected to be able to return to work on Wednesday of that week but on Tuesday Mr. Myers told a friend and co-worker by the name of Rodney Fraley that I had been terminated.

AUG 3 1